



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** Colbar, Inc.  
**File:** B-230754  
**Date:** June 13, 1988

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### **DIGEST**

Protest against the award of an interim contract for 6 months with a 6-month option period based on unusual and compelling urgency is denied with respect to the base period but General Accounting Office recommends that option not be exercised since after a total of 18 months of extensions the urgency determination does not support the option period.

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### **DECISION**

Colbar, Inc., protests the Army's award of an interim contract extending the performance period of contract No. DABT60-86-C-1318 for food services and dining facilities attendant services at Fort Knox, Kentucky. Colbar challenges the Army's justification for awarding an interim contract based on a determination of unusual and compelling urgency and contends that the Army should have competed the requirement. While we find that urgency justified the award of the base period of the interim contract, we do not believe that the urgency determination supports the 6-month option period. We therefore deny the protest, but recommend that the option not be exercised.

United Food Services, the incumbent contractor, was first awarded a contract for these food services after our Office sustained its protest against an award to Colbar in United Food Services, 65 Comp. Gen. 167 (1985), 85-2 CPD ¶ 727. As a result of that decision, the Army did not exercise its option under Colbar's contract, and then awarded to United an interim contract for a 9-month period from October 1, 1986, through June 30, 1987. The Army states that during this period it attempted to prepare a solicitation for the requirement, that with options would cover approximately a 4-year period. However, it became apparent to the Army in April 1987 that its acquisition plan for the services could not be completed prior to the expiration of United's

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contract. The Army then awarded United contract extensions through March 31, 1988, again because of delays in preparing the competitive solicitation for the requirement. The delays were apparently due to problems surrounding the inclusion of a portion of the food service requirement in a commercial activities program, and because of an internal debate as to whether a negotiated procurement was required instead of a sealed bid one. In each case, the Army justified the award to United without the use of full and open competitive procedures due to the unusual and compelling urgency of the circumstances. 10 U.S.C. § 2304(c)(2) (Supp. III 1985). Because United's contract would have expired in March prior to the issuance of the new competitive solicitation, the Army determined that unusual and compelling circumstances justified the award of yet another interim contract to United for a 6-month period through September 30, 1988, with an option for another 6 months. We have been informed by the Army that the new solicitation was issued as a request for proposals on May 6 and that offers are due July 7.

Colbar protests that this latest award to United is an evasion of the competitive process. The protester argues that it should be given an opportunity to compete for the requirement.

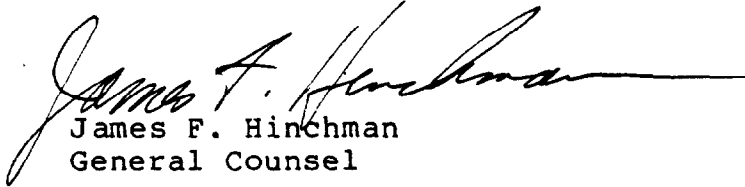
As a general rule, procurements must be conducted using competitive procedures. 10 U.S.C. § 2304(a)(1). However, an agency may use other than competitive procedures where the agency's needs are of such an unusual and compelling urgency that the government would be seriously injured if the agency did not limit the number of sources from which bids or proposals are solicited. 10 U.S.C. § 2304(c)(2); Federal Acquisition Regulation (FAR) § 6.302-2(a)(2) (FAC 84-28). When using other than competitive procedures based on unusual and compelling urgency, the agency is required to request offers from as many potential sources as is practicable under the circumstances. 10 U.S.C. § 2304(e); FAR § 6.302-2(c)(2). An agency, however, has the authority under 10 U.S.C. § 2304(c)(2) to limit the procurement to the only firm it reasonably believes can properly perform the work in the available time. Honeycomb Company of America, B-227070, Aug. 31, 1987, 87-2 CPD ¶ 209. We will object to the agency's determination to limit competition based on unusual and compelling urgency where we find that the agency's decision lacks a reasonable basis. Dynamic Instruments, Inc., B-220092, et al., Nov. 25, 1985, 85-2 CPD ¶ 596.

Colbar argues that a 6-month time period is more than adequate to warrant conducting a competitive procurement. Colbar believes that contrary to the agency's determination,

the most recent award is not justified by unusual and compelling circumstances. According to Colbar, other military installations competitively procure interim requirements covering as little as 30 days.

The record supports the Army's position that due to a string of problems in preparing a competitive solicitation, there is a need to have these services performed until an award is made under the new solicitation. Further, we agree with the agency that there is a legitimate concern about the risk of having three different contractors, the incumbent, the interim awardee, and the awardee under the new solicitation providing services within the latest 6-month time period and that the start-up costs, hiring and rehiring of the approximately 300 people required to provide the service, and phasing in and out of three contractors would likely disrupt food service. While we think that the record supports the agency's action as far as the 6-month base period is concerned, we do not believe that the justification supports a further 6-month option period. The Army's sole source determination does not support the procurement of services for more than a minimum period of time. See Honeycomb Company of America, B-227070, supra. We therefore deny the protest but recommend that the option not be exercised.

The protest is denied.

  
James F. Hinchman  
General Counsel